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E.O. 12958: DECL: 10/03/2016

TAGS: PREL PGOV ASEC CASC KJUS PHUM ID

SUBJECT: TIMIKA TRIAL: DEFENDANTS REFUSE TO TESTIFY

REF: JAKARTA 12099 (LAST DAY OF VICTIM AND EXPERT

TESTIMONY)

Classified By: Marc L. Desjardins, Political Counselor. Reason: 1.4 (b
, d)

¶1. (SBU) The trial of the suspects in the 2002 murder of two Americans and one Indonesian near Timika, Papua resumed on October 3. The opening of the session was delayed by an hour because the head judge in the Timika case also served in the morning session of a circus-like, high-profile corruption trial involving senior GOI figures. The October 3 session was to be devoted to cross-examination of the defendants, including Anthonious Wamang.

¶2. (SBU) The defendants' legal counsel was not present for the session. Wamang, speaking through an Amungme language interpreter, refused to testify for several reasons. Wamang claimed that, first, the authorities had not yet met the defendants' demand that co-conspirator Hardi Sugimol be given proper medical attention (reftel). He also protested that he was suffering from stress because of taunting by other jail inmates. Wamang was seconded by Eshak Ondawatme, who said that he had been a human rights activist before his arrest and that he would not testify until these human rights-related issues were addressed. With this, the defendants were removed from the courtroom.

¶3. (SBU) The judge then said she would not accept further delays, and called on the prosecution to read written statements from two victim witnesses not able to appear in court. The prosecution read aloud statements from Freeport driver Mastur and Freeport security official Andrew Neal. Following this, the prosecution read written statements (Berita Acara Pemeriksaan, or "Report of Investigation Proceedings") that each of the defendants had made to police while in custody. These statements were short, and included accounts of meetings with FBI investigators following the shooting. The day's session concluded at about 3:30 p.m. The judge said that the trial would resume on Tuesday, October 10, at which time the prosecution would read its sentencing request.

¶4. (C) With regard to the issue of Hardi Sugimol's illness, Poloff and Legatt met with lead prosecutor Anita Asterida on October 2. We urged that Sugimol be afforded all medical

treatment that he is entitled to under Indonesian law; otherwise, the defense might have grounds to challenge the authorities' handling of the case on human rights grounds. Ms. Asterida acknowledged that Sugimol was seriously ill and had already been hospitalized once in late August. At that time, he was diagnosed with tuberculosis, hepatitis, HIV infection, and pericardial effusion. She said Sugimol was being treated by a prison doctor, but that she would meet with the judge on October 4 to discuss the matter, including whether Sugimol should be hospitalized again. She noted that Sugimol's defense lawyer had neither visited Sugimol in jail nor made any attempt to arrange for additional medical treatment. We note that Indonesian law does not allow for charges to be dropped for reasons of illness on the part of the defendant, although legal proceedings against a sick defendant can be suspended while he is undergoing treatment.

¶15. (C) Comment. We regard today's developments as yet another display of the defense's effort to derail the trial by means of obstruction, resistance and general non-cooperation. The judge's patience is reaching its limit, as demonstrated by her decision to proceed without cross-examination of the defendants. End comment.

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